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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,068

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EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1791

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,068	<b>Applicant(s)</b> OHSAWA ET AL.	
	<b>Examiner</b> Steven D. Maki	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 4-9-08.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>061108</u> .  | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 1791

1) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3) **Claims 1-2, 19 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Takasugi et al (US 5,358,021).**

Takasugi et al is applied as in paragraph 3 of the last office action (paragraph 3 of the last office action is incorporated herein by reference).

Applicant argues the grooves in the rib 3 are on the outer side of the tire of Takasugi **instead of** the inner side of the tire. Applicant further argues that the grooves in block row 7 are on the inner side of the tire **instead of** the outer side. This glass half empty is different than glass half full argument is not persuasive. The contrast applicant attempts to create fails to exist in the claimed tire because the claimed tire can be mounted such that the outer side becomes the inner side and visa versa.

Applicant fails to address the examiner's reasoning as to the volume of grooves in a rib 3 being less than the volume of lateral grooves in the block row 7. Instead, applicant relies on intended use of the tire instead of tire structure for patentability of claim 1. However, the intended use of the claimed tire (whether the claimed tire is

mounted such that the side having the smaller sum of groove volume is an inner side or outer side) fails establish any difference between Takasugi et al's tire and the claimed tire.

Applicant argues that Takasugi does not satisfy every feature of claim 22.

Examiner disagrees since the description of the rigidity in the widthwise direction being "within a range of 50% from a large value between mutually adjacent land part rows" is sufficiently broad to read on the similar width land rows of Takasugi et al.

**4) Claims 1-3, 5, 8-12, 15-24, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takasugi et al.**

Takasugi et al is applied as in paragraph 4 of the last office action (paragraph 4 of the last office action is incorporated herein by reference).

As to applicant's comments regarding claim 1, examiner maintains his position that a tire can be mounted so that either side becomes an inner side.

As to claims 3, 5 and 8, applicant argues that the examiner has simply stated that the features of these claims would have been obvious to one of ordinary skill in the art. Applicant is incorrect. Examiner took official notice of the use of a fine circumferential groove in a shoulder of a tire to prevent wear. Applicant ignored this evidence and consequently overlooked the motivation (prevention of wear) relied upon to show the desirability of using such a well known feature in the tire tread of Takasugi.

Applicant argues that examiner has not provided any evidence to support the obviousness conclusion as to claims 8-12, 16-18, and 20-21. Applicant is incorrect. Applicant ignores the official notice, which is the evidence relied upon.

As to claim 26, sipes in a rib which are inclined with respect to the circumferential direction extend in a direction crossing the rib. Claim 26 fails to specify the amount of the crossing.

As to claim 27, Takasugi et al's tread has acute angle corners and the official notice establishes the desirability (reduced wear) of chamfering.

**5) Claims 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takasugi et al as applied above and further in view of Japan 918 (JP 08-118918) and Japan 107 (JP 62-059107).**

Japan 918 and Japan 107 are applied as in paragraph 5 of the last office action (paragraph 5 of the last office action is incorporated herein by reference).

As to claims 4, 6 and 7, applicant argues that Japan 918 and Japan 107 do not disclose the fine groove extending in the circumferential groove. As already mentioned, the use of a fine circumferential groove in a shoulder of a tire to prevent wear is well known / conventional. Applicant fails to challenge this official notice.

**6) Claims 13, 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takasugi et al as applied above and further in view of German 159 (DE 3738159).**

German 159 is applied as in paragraph 6 of the last office action (paragraph 6 of the last office action is incorporated herein by reference).

As to claims 13 and 14, applicant argues that examiner simply alleges German 159 as suggesting forming ellipsoidal sipes in ribs of a tread. Applicant's analysis is

incomplete because, as noted in the last office action, German 159 teaches using the ellipsoidal sipes to provide uniform wear and good grip.

As to claim 28, German 159 teaches orienting the ellipsoidal sipes such that the major axes are alternately opposed in the circumferential direction. See figure 3.

**7) Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takasugi et al as applied above and further in view of Landers et al (US 5,176,76)**

Landers et al is applied as in paragraph 7 of the last office action (paragraph 7 of the last office action is incorporated herein by reference).

Applicant argues that the examiner did not address the specific feature of a connecting portion between a rim and a disc of a wheel being located toward the outer side of a vehicle. Applicant is incorrect. The rim upon which Takasugi et al's tire is mounted inherently has such a disc. The location of that disc, as would be readily understood by one ordinary skill in the art, would have been located toward the vehicle outer side. However, the location of the smaller sum of lateral groove volume of Takasugi et al would correspond to the location of this disc of the wheel upon which all pneumatic tires are mounted. See figure 1 of Takasugi et al. Applicant appears to agree with this factual finding in light of the emphasis applicant places on "inner" versus "outer" when discussing the application of Takasugi et al against claim 1. The *indirect capture of the intended use of the tire* (inner side having smaller sum of groove volume) by the association of the tire and wheel in claim 25 is specifically addressed by the application of Landers which teaches oppositely mounting the tire.

Remarks

8) Applicant's arguments with respect to claims 26-28 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 4-9-08 have been fully considered but they are not persuasive. Applicant's arguments are addressed above.

9) No claim is allowed.

10) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven D. Maki/  
Primary Examiner, Art Unit 1791

Steven D. Maki  
June 23, 2008